

ESTTA Tracking number: **ESTTA76733**

Filing date: **04/18/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91169660
Party	Defendant Bass Pro Trademarks, L.L.C. Bass Pro Trademarks, L.L.C. 2500 East Kearney Springfield, MO 65898
Correspondence Address	DENNIS J.M. DONAHUE III HUSCH & EPPENBERGER, LLC 190 CARONDELET PLZ STE 600 SAINT LOUIS, MO 63105-3433
Submission	Answer
Filer's Name	Dennis J.M. Donahue III
Filer's e-mail	trademark@husch.com
Signature	/Dennis J.M. Donahue III/
Date	04/18/2006
Attachments	Simms v Bass - Answer.pdf ( 5 pages )(123068 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application Serial No. 78/629,408

For the mark EXTREME in International Class No. 028

Date Filed:

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Simms Fishing Products Corporation,:	:	
OPPOSER,	:	
	:	
v.	:	OPPOSITION NO. 91169660
	:	
Bass Pro Trademarks, L.L.C.	:	
APPLICANT	:	
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**APPLICANT’S ANSWER AND AFFIRMATIVE DEFENSES**  
**TO NOTICE OF OPPOSITION**

Applicant Bass Pro Trademarks, L.L.C. (“Applicant”), by and through counsel of record, hereby responds to Opposer’s Notice of Opposition as follows:

1. Applicant admits that Bass Pro Trademarks, L.L.C. is a limited liability company organized and existing under the laws of the State of Missouri with offices at 2500 East Kearney, Springfield, Missouri 65898.
2. Applicant admits that its pending application speaks for itself.
3. Applicant admits that its pending application speaks for itself. Applicant denies that it alleged a date of first use of January 1996 but instead alleged a date of first use at least as early as January 1996.
4. Applicant is without sufficient information or knowledge to form a belief as to the

allegations contained in paragraph 4 of the Notice of Opposition and therefore denies the same.

5. Applicant admits that the registration identified in paragraph 5 speaks for itself. Applicant is without sufficient information or knowledge to form a belief as to the remaining allegations contained in paragraph 5 and therefore denies the same.

6. Applicant admits that the registration identified in paragraph 6 speaks for itself. Applicant is without sufficient information or knowledge to form a belief as to the remaining allegations contained in paragraph 6 and therefore denies the same.

7. Applicant admits that the application identified in paragraph 7 speaks for itself. Applicant is without sufficient information or knowledge to form a belief as to the remaining allegations contained in paragraph 7 and therefore denies the same.

8. Applicant is without sufficient information or knowledge to form a belief as to the remaining allegations contained in paragraph 8 of the Notice of Opposition and therefore denies the same.

9. Applicant is without sufficient information or knowledge to form a belief as to the remaining allegations contained in paragraph 9 of the Notice of Opposition and therefore denies the same.

10. Applicant is without sufficient information or knowledge to form a belief as to the remaining allegations contained in paragraph 10 of the Notice of Opposition and therefore denies the same.

11. Applicant is without sufficient information or knowledge to form a belief as to the allegations contained in paragraph 11 of the Notice of Opposition and therefore denies the same.

12. Applicant denies the allegations contained in paragraph 12.

13. Applicant denies the allegations contained in paragraph 13.

## **GENERAL DENIAL**

Applicant denies each and every allegation contained in Opposer's Notice of Opposition that is not specifically admitted herein.

### **First Affirmative Defense**

Opposer's claims are barred for failure to state a claim.

### **Second Affirmative Defense**

Opposer's claims are barred by laches.

### **Third Affirmative Defense**

Opposer's claims are barred by estoppel.

### **Fourth Affirmative Defense**

Opposer's claims are barred by acquiescence.

### **Fifth Affirmative Defense**

Opposer's claims are barred by waiver.

### **Sixth Affirmative Defense**

Opposer's claims are barred by abandonment.

### **Seventh Affirmative Defense**

Opposer's claims are barred by unclean hands.

### **Eighth Affirmative Defense**

Opposer's claims are barred by an implied license, consent or permission from Registrant.

**Ninth Affirmative Defense**


Applicant has superior rights over Opposer to the mark EXTREME and began using EXTREME before Opposer began using EXSTREAM.

**Tenth Affirmative Defense**

Applicant reserves the right to assert each and every additional defense, including affirmative defenses, as may become available during the course of this opposition.

Respectfully submitted this 18<sup>th</sup> day of April, 2006.

HUSCH & EPPENBERGER, LLC

By 

Dennis JM Donahue III  
Gregory E. Upchurch  
H. Frederick Rusche  
190 Carondelet Plaza, Suite 600  
Saint Louis, Missouri 63105  
Telephone: (480) 480-1500  
Facsimile: (480) 480-1505  
Email: trademark@husch.com

Attorneys for Bass Pro Trademarks, L.L.C.

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing Applicant's Answer to Notice of Opposition was served by first class mail, postage prepaid, on Antoinette M. Tease, Esq., P.O. Box 51016, Billings, Montana 59105, the attorney for Opposer, on this 18<sup>th</sup> day of April, 2006.

A handwritten signature, possibly reading "MTC", is written above a horizontal line.